

provisions in paragraphs (d) and (e) of § 206.17 relating to Commission responses to a breach of an administrative protective order and breach procedure shall apply with respect to orders issued under this paragraph.

(f) *Time for reporting.* The Commission will make its report to the President at the earliest practical time, but not later than 60 days before the action under section 203 of the Trade Act is to terminate, unless the President specifies a different date.

(g) *Public report.* Upon making a report to the President of the results of an investigation to which this § 206.54 relates, the Commission will make such report public (with the exception of information which the Commission determines to be confidential) and cause a summary thereof to be published in the **Federal Register**.

**§ 206.55 Investigations to evaluate the effectiveness of relief.**

(a) *Investigation.* After any action taken under section 203 has terminated, the Commission will conduct an investigation for the purpose of evaluating the effectiveness of the relief action in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b) of the Trade Act.

(b) *Hearing.* In the course of such investigation, the Commission will hold a hearing at which interested persons will be given an opportunity to be present, to produce evidence, and to be heard.

(c) *Time for reporting.* The Commission will submit its report to the President and to the Congress by no later than the 180th day after the day on which the action terminated.

By order of the Commission.

Issued: December 23, 1994.

**Donna R. Koehnke,**  
Secretary.

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**19 CFR Part 207**

**Notice of Interim Amendment to Rules of Practice and Procedure**

**AGENCY:** United States International Trade Commission.

**ACTION:** Interim rules with request for comment.

**SUMMARY:** The Commission is amending its Rules of Practice and Procedure on an interim basis to conform with the

Uruguay Round Agreements Act, (URAA). These rules govern investigations of whether domestic industries are injured by reason of imports sold at less than fair value or from subsidized imports to the United States.

The amendments provide, in particular, for new rules concerning comments on information obtained in investigations and for investigations concerning certain countervailing duty orders entered under section 303 of the Tariff Act of 1930 (the Act).

Additionally, several rules are amended to conform their language with the provisions to the Act added or amended by the URAA.

**DATES:** The interim amendments become effective on January 1, 1995, the date on which the World Trade Organization (WTO) Agreement enters into force with respect to the United States, unless the United States Trade Representative (USTR) announces prior to that date that the WTO Agreement will not enter into force on that date. Should the effective date be other than January 1, 1995, the Commission will publish notice to such effect in the **Federal Register**.

To be assured of consideration, written comments must be received not later than April 3, 1995.

**ADDRESSES:** A signed original and 14 copies of each set of comments, along with a cover letter, should be submitted to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436.

**FOR FURTHER INFORMATION CONTACT:** Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission, telephone 202-205-3087. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The URAA was enacted on December 8, 1994. This legislation contains provisions which, *inter alia*, amend Title VII of the Act (19 U.S.C. 1671 *et seq.*), concerning antidumping and countervailing duty investigations and review. The Commission's rules concerning Title VII practice and procedure need to be amended to conform to the new legislation.

Section 335 of the Act (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties. Additionally, section 103(a) of the URAA specifies that appropriate officers of the United States Government

may issue such regulations as may be necessary to ensure that any provision of that act, or amendment made by the act, is appropriately implemented on the effective date of that act, and section 103(b) of the URAA directs that any interim regulations necessary or appropriate to carry out any action proposed in the Statement of Administrative Action approved under section 101(a) of the URAA to implement an agreement described in section 101(d)(7), (12), or (13) of the URAA be issued not later than 1 year after the date on which the agreement enters into force with respect to the United States.

Commission rules to implement new legislation ordinarily are promulgated in accordance with the rulemaking provisions of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*), which entails the following steps: (1) publication of a notice of proposed rulemaking; (2) solicitation of public comments on the proposed rules; (3) Commission review of such comments prior to developing final rules; and (4) publication of the final rules thirty days prior to their effective date. See 5 U.S.C. 553. That procedure could not be utilized in this instance because the new legislation was enacted on December 8, 1994, and will become effective when the WTO enters into force with respect to the United States, which will be January 1, 1995, unless USTR announces otherwise prior to that date. Consequently, it was not possible to complete the section 553 rulemaking procedure prior to the effective date of the new legislation.

The Commission thus determined to adopt interim rules that will go into effect when the provisions of the URAA amending Title VII become effective and will remain in effect until the Commission adopts final rules promulgated in accordance with the usual notice, comment, and advance publication procedure.

The Commission's authority to adopt interim rules without following all steps listed in section 553 of the APA is derived from three sources: (1) section 335 of the Act (19 U.S.C. 1335), the pertinent portion of which was discussed above; (2) section 103 of the URAA and the Statement of Administrative Action approved by the URAA, the pertinent portions of which were also discussed above; and (3) provisions of section 553 of the APA which allow an agency to dispense with various steps in the prescribed rulemaking procedure under certain circumstances.

The Commission determined that the need for interim rules is clear in this instance. The Commission noted that the new legislation alters Title VII practice and procedure and that the existing Commission rules do not encompass certain procedures required by the new legislation. The Commission found that rulemaking was essential for the orderly administration of Title VII as amended by the new legislation. Furthermore, since the legislation is to become effective very shortly after enactment, the Commission concluded that it would be imperative that implementing rules be in place on the effective date of the new statute.

The Commission noted that an agency may dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) the proposed rules are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and that finding (and the reasons therefor) are incorporated into the rules adopted by the agency. 5 U.S.C. § 553(b). An agency may also dispense with the publication of a notice of final rules thirty days prior to their effective date if (1) the rules are interpretive rules or statements of policy or (2) the agency finds that "good cause" exists for not meeting the advance publication requirement and that finding is published along with the rule. 5 U.S.C. § 553(d)(3).

In this instance, the Commission determined that the requisite circumstances existed for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b) exemption from publishing a notice of proposed rulemaking which solicits public comment, the Commission found that (1) the interim rules are "agency rules of procedure or practice"; and (2) since the new legislation is projected to become effective very shortly after enactment, and the time or fact of enactment could not be predicted in advance, it clearly would be "impracticable" for the Commission to comply with the usual notice, comment, and advance publication procedure. For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim rules thirty days prior to their effective date, the Commission found that the fact that the new legislation is expected to become effective very shortly after

enactment made such advance publication impossible and constituted "good cause" for the Commission not to comply with that requirement.

The Commission recognizes that interim regulations should not respond to anything more than the exigencies created by the new legislation and expects that the more comprehensive final rules to follow will emerge as a result of the Congressionally-mandated policy of affording public participation in the rulemaking process.<sup>1</sup> Having been promulgated in response to exigencies created by the new legislation, each interim rule accordingly comes under one or more of the following categories:

- (1) revision of a pre-existing rule that conflicted with the new legislation;
- (2) a technical amendment to make a pre-existing rule conform to the language of the new legislation;
- (3) rewording of a pre-existing rule to avoid confusion about how the rule is to be applied in light of the new legislation; or
- (4) a new rule covering a matter provided for in the new legislation but not covered by a pre-existing rule. More comprehensive final rules will be issued at a later date in accordance with the usual notice, public comment, and advance publication procedure.

Because the interim regulations merely respond to exigencies created by the new legislation, the Commission has further determined that they do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) (EO) and thus do not constitute a significant regulatory action for purposes of the EO. In accordance with the Regulatory Flexibility Act (5 U.S.C. § 601 note), the Commission hereby certifies pursuant to 5 U.S.C. § 605(b) that the rules set forth in this notice are not likely to have a significant impact on a substantial number of small business entities. In any event, the Regulatory Flexibility Act is inapplicable to this rulemaking because it is not one in which a notice of proposed rulemaking is required under 5 U.S.C. § 553(b).

#### **Explanation of the Interim Amendments to 19 CFR Part 207**

The amendments set forth below are intended to reflect changes in the law effected by the URAA.

Section 207.1 is amended to state that the Part 207 regulations are not applicable to investigations conducted pursuant to section 783 of the Act,

which concerns antidumping petitions filed by third countries. Section 783 was added to the Act by section 232 of the URAA. Section 783(c) states that Commission determinations in investigations arising from antidumping petitions by third countries shall be made according to procedural requirements specified by the Office of the United States Trade Representative (USTR). Because the Commission is not the agency that has been accorded statutory authority to specify procedures with respect to section 783 investigations, section 207.1 must be amended to exclude section 783 investigations from its scope. Additionally, the U.S. Code citations in section 207.1 have been amended to reflect the new U.S. Code provisions added to Title VII of the Act by the URAA.

Section 207.2(e) is amended to change the reference to "a class or kind of merchandise" to "subject merchandise." This reflects a change in statutory terminology pursuant to, *inter alia*, section 233(5) of the URAA.

Section 207.8 is amended to conform its terminology to changes made in the Act pursuant to section 231 of the URAA. The reference under clause (a) to "best information otherwise available" has been changed to "the facts otherwise available," consistent with new section 776(a) of the Act. The language under clause (c) referencing adverse inferences has been amended to conform to that used in new section 776(b) of the Act.

Sections 207.10(a), 207.10(c)(2), and 207.11 are amended, and former section 207.10(d) is repealed, to eliminate references to petitions filed under section 303. Section 261 of the URAA repeals section 303 on its effective date, so no new section 303 petitions will be filed after the effective date of these regulations. Other references to section 303 have been retained in the regulations, inasmuch as section 261(b)(2) of the URAA states that the repeal does not affect pending proceedings under section 303, and the Commission may have section 303 investigations pending as of the effective date of these regulations.

A new section 207.29 is added concerning comments on information. This new section implements the provisions of section 782(g) of the Act, as amended by section 231(a) of the URAA. These new provisions require the Commission, before making a final determination in countervailing or antidumping duty investigations or review proceedings, to cease collecting information and provide parties to the proceeding with a final opportunity to

<sup>1</sup> See *American Federation of Government Employees, AFL-CIO v. Block*, 655 F.2d 1153, 1157-1158 (D.C. Cir. 1981) ("AFGE"). See also *United States v. Garner*, 767 F.2d 104, 120 (5th Cir. 1985) (quoting AFGE).

comment upon all information on which they previously had not had an opportunity to comment.

For purposes of these interim regulations, the Commission has proposed to implement section 782(g) by adopting relatively minor changes to the procedures it currently follows in final antidumping and countervailing duty investigations. The Commission is interested in receiving comments, however, concerning whether more extensive changes to its antidumping and countervailing investigation procedures are necessary or desirable to implement section 782(g). More extensive changes could entail one or several of the following: instituting final investigations at an earlier time; releasing the final confidential staff report prior to the parties' final opportunity to comment under section 782(g); implementing a multiple-stage comment procedure to permit the Commission and Commission staff to submit final questions to the parties and/or to allow the parties to submit rebuttal comments. The Commission is additionally interested in receiving comment concerning the scheduling of procedures it is adopting to implement section 782(g), i.e., concerning how long before the public vote the final disclosure of information should take place, and the amount of time after disclosure parties should be provided to file their comments. This could include submission of suggested model work schedules, particularly if the proposed dates for issuing questionnaires or scheduling a hearing need to be changed (e.g., if questionnaires are issued before Commerce's preliminary determination) as a result.

Section 207.29(a) concerns the Commission's first obligation under new section 782(g): to disclose information to parties to an investigation or review. Consequently, section 207.29(a) requires the Commission to specify in a final antidumping or countervailing duty investigation a date on which it will disclose to the parties to the investigation all information on which they have not previously had an opportunity to comment. This includes business proprietary information, which will be released pursuant to administrative protective order. It is anticipated that the disclosure date will be specified as soon as practicable after institution of the final investigation. Additionally, to ensure that all transcript corrections are received by the Commission prior to the disclosure date, section 207.23(c)(2) is amended to state that all proposed revisions to the hearing transcript be submitted to the

Secretary at least one day prior to the information disclosure date.

Section 207.29(b) concerns the Commission's second obligation under new section 782(g): to provide the parties an opportunity to comment on the information disclosed. This section indicates that the Commission will specify a date on which the parties will have an opportunity to file comments on information disclosed to them pursuant to subsection (a). The comments can only concern the information disclosed pursuant to subsection (a) and shall not exceed 10 pages of textual material, double spaced and single-sided, on stationery measuring 8½ x 11 inches. To implement the requirement of section 782(g) that the Commission disregard comments containing any new factual information, the regulation requires that comments addressing the accuracy, reliability, or probative value of information disclosed by reference to information elsewhere in the record shall identify where in the record such information is found. Section 207.29(b) also states that the record shall close on the date the comments are due, except as provided in section 771(7)(G)(iii) with respect to staggered investigations.

Pursuant to section 207.29(c), the provisions of section 207.29 will be applicable to final countervailing duty and antidumping investigations under sections 705 and 735 to which the amendments made to Title VII of the Act by the URAA are applicable. Additionally, by virtue of section 207.45(d) and new section 207.46(d), the provisions of section 207.29 are also pertinent to changed circumstances investigations under section 751(b) and reviews of certain outstanding section 303 orders under new section 753.

In furtherance of new section 207.29, the Commission may adopt a practice of releasing staff reports on or before the disclosure date established pursuant to that section in the event that one or more parties to an investigation or review do not have access to business proprietary information subject to administrative protective order. Section 207.21(b) is therefore amended to delete the clause stating that the public version of the Commission's final staff report will be released "after the Commission's final determination." The Commission does not take the position, however, that such a practice is required by section 207.29. Nor does the Commission anticipate that it will necessarily release public copies of staff reports on or before the disclosure date as a general matter.

There are two technical amendments to section 207.40. First, section

207.40(a) is amended by addition of the language "upon withdrawal of the petition by the petitioner" so it will conform more closely with sections 704(a)(3) and 734(a)(3), whose requirements it implements. This change is also needed because the URAA has amended the Act to specify that a Commission preliminary determination of negligible imports pursuant to new section 771(24) will have the effect of terminating an investigation. Second, section 207.40(b) is amended to reflect that the Department of Commerce may suspend antidumping investigations pursuant to section 734(l), as well as sections 734 (b) and (c).

A new section 207.46 is added to establish procedures for investigations under section 753 of the Act. Section 753, which was added to the Act by section 271 of the URAA, concerns countervailing duty orders that were issued under former section 303 of the Act without an injury determination being made by the Commission.

Section 207.46(a) contains definitions for terms used in that section. The first term, "requesting party," merely references the type of parties eligible under section 753(a)(1) to request an investigation pursuant to that section. The second term, "order," is taken directly from section 753(a)(2). The third term, "WTO agreement," is taken directly from section 2(9) of the URAA.

Section 207.46(b) establishes requirements for requests for reviews under section 753. Such requests must be made by a "requesting party"—that is, a party eligible to file a request under section 753(a)(1), and must be made within the time period established under section 753(a)(3). Paragraphs (1) through (4) specify additional material that should be included within the request to enable the Commission to facilitate and organize its investigation under section 753 and to formulate questionnaires. These encompass:

(1) A description of the relevant domestic like product and domestic industry on which the requesting party believes the Commission should focus in conducting its section 753 investigation, and identification of the individual members of that domestic industry.

(2) Information concerning the names and addresses of all known enterprises believed to be manufacturing, producing, exporting, or importing the subject merchandise.

(3) Information reasonably available to the requesting party documenting how that domestic industry is likely to be materially injured by reason of subject imports if the section 303 order

at issue is revoked. The provision specifies certain types of information concerning both the domestic industry and entities that produce or export the subject imports that should be included within the request, to the extent possible, to facilitate the Commission's determination.

(4) Information concerning any scope and antircumvention rulings issued by the Department of Commerce with respect to the section 303 order at issue.

When the Commission receives a timely request for a section 753 investigation satisfying these requirements, section 207.46(c)(1) provides that it will publish a notice of initiation of the investigation in the **Federal Register**. Such notice is required by section 753(d). Section 207.46(c)(2) implements the policy of section 753(b)(1)(B) that the Commission should issue determinations in section 753 investigations within one year of initiation to the extent possible. The statute, however, provides an exception to the one-year policy in section 753(b)(1)(C) for investigations initiated within one year after the date on which the WTO Agreement enters into force with respect to the United States. This exception is reflected at section 207.46(c)(3) of the new regulations, which pursuant to the statute, states that all investigations must be completed within four years of the date the WTO Agreement enters into force and that the Commission shall confer with the Department of Commerce in determining whether to extend a completion date. Section 207.46(c)(3) also provides a description of grounds that may justify the Commission extending a completion date; the grounds specified are not intended to be exclusive.

Section 207.46(d) specifies that the procedures set forth pertaining to final antidumping and countervailing duty investigations shall also be applicable to section 753 investigations. This is consistent with section 753(b)(1)(A) of the Act.

Section 207.46(e) reflects the requirements of section 753(b)(4) with respect to section 303 orders for which no request for review is filed. Similarly, section 207.46(f) reflects the requirements of section 753(c) for section 303 investigations without an injury test that are pending or have been suspended when a country has become a signatory to the WTO's Agreement on Subsidies and Countervailing Measures. Section 207.46(g) concerns review requests made under section 753(e).

That section permits a requesting party to file, simultaneously with its request

for review under section 753, a request for an expedited "sunset" review under section 751(c) of countervailing or antidumping duty orders involving the same or comparable subject merchandise. Sections 753(e)(1)(A) and 753(e)(3) indicate that if the Department of Commerce, after consultation with the Commission, should determine to initiate a review pursuant to the request, the Commission shall conduct a consolidated review pursuant to the procedures applicable to section 751(c) reviews.

The Commission has determined not to issue detailed regulations for section 751(c) investigations as part of these interim rules. Instead, the Commission anticipates that it will promulgate such regulations pursuant to notice-and-comment rulemaking procedures promptly after the URAA's amendments to the Act become effective. Nevertheless, section 207.46(g) contains a brief specification of how any section 751(c) reviews initiated by Department of Commerce pursuant to requests made under section 753(e) will be conducted. Section 207.46(g)(1) authorizes requests for expedited review, and states that the request for review under section 751(c) should set forth evidence to establish why revocation of the order to be reviewed under section 751(c) would be likely to lead to continuation or recurrence of material injury. Again, the Commission intends to promulgate more detailed regulations concerning the content of requests for review under section 751(c) as part of subsequent notice-and-comment rulemaking.

Section 207.46(g)(2) states that if the Department of Commerce should determine to initiate a section 751(c) review, the Commission shall conduct a consolidated review under sections 751(c) and 753 under the procedures set forth in Subparts A and C of Part 207. This implements the requirements of section 753(e)(3) pending the promulgation of more detailed procedural rules pertaining to section 751(c) investigations. Section 207.46(g)(3) states that if Commerce should determine not to initiate a section 751(c) review, the Commission will proceed with the section 753 review request pursuant to the procedures stated elsewhere in section 207.46.

#### List of Subjects in 19 CFR Part 207

Administrative practice and procedure, Antidumping, Countervailing duties, Investigations.

#### PART 207—[AMENDED]

Part 207 is amended as set forth below:

1. The authority citation for Part 207 is revised to read as follows:

**Authority:** 19 U.S.C. 1303, 1336, 1671–1677n, 2482; sec. 103, Pub. L. 103–465, 108 Stat. 4809.

1a. Section 207.1 is revised to read as follows:

##### § 207.1 Applicability of part.

Part 207 applies to proceedings of the Commission under section 303, section 516A and title VII of the Tariff Act of 1930 (19 U.S.C. 1303, 1516A and 1671–1677n) (the Act), other than investigations under section 783 (19 U.S.C. 1677n), which will be conducted pursuant to procedures specified by the Office of the United States Trade Representative.

2. Paragraph (e) of section 207.2 is revised to read as follows:

##### § 207.2 Definitions applicable to part 207.

\* \* \* \* \*

(e) The term *injury* means: Material injury or threat of material injury to an industry in the United States, or material retardation of the establishment of an industry in the United States, by reason of imports into the United States of subject merchandise which is found by the administering authority to be subsidized, or sold, or likely to be sold, at less than its fair value.

\* \* \* \* \*

3. Section 207.8 is revised to read as follows:

##### § 207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

Any questionnaire issued by the Commission in connection with any investigation under section 303 or title VII of the Act, may be issued as a subpoena and subscribed by a Commissioner, after which it shall have the force and effect of a subpoena authorized by the Commission. Whenever any party or any other person fails to respond adequately to such a subpoena or whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Commission may:

(a) Use the facts otherwise available in making its determination;

(b) Seek judicial enforcement of the subpoena pursuant to 19 U.S.C. 1333;

(c) Make inferences adverse to such person's position, if such person is an interested party that has failed to cooperate by not acting to the best of its ability to comply with a request for information; and

(d) Take such other actions as necessary to obtain needed information.

4. Paragraphs (a) and (c)(2) of Section 207.10 are revised to read as follows:

**§ 207.10 Filing of petition with the Commission.**

(a) *Filing of the petition.* Any interested party who files a petition with the administering authority pursuant to section 702(b) or 732(b) of the Act shall file copies of the petition, pursuant to section 201.8 of this chapter, with the Secretary on the same day the petition is filed with the administering authority. If the petition complies with the provisions of section 207.11, it shall be deemed to be properly filed on the date on which the requisite number of copies of the petition is received by the Secretary. The Secretary shall notify the administering authority of that date. Notwithstanding section 201.11 of this chapter, a petitioner need not file an entry of appearance in the preliminary investigation instituted upon the filing of its petition, which shall be deemed an entry of appearance, although the petitioner must file an entry of appearance in any final investigation corresponding to that preliminary investigation.

\* \* \* \* \*

(c) \* \* \*

(2) When not made in the petition, any allegations of critical circumstances under section 703 or 733 of the Act shall be made in an amendment to the petition and shall be filed as early as possible. Critical circumstances allegations, whether made in the petition or in an amendment thereto, shall contain information reasonably available to petitioner concerning the factors enumerated in sections 705(b)(4)(A) and 735(b)(4)(A) of the Act.

**§ 207.10 [Amended]**

5. Paragraph (d) of section 207.10 is removed.

6. Section 207.11 is revised to read as follows:

**§ 207.11 Contents of petition.**

The petition shall be signed by the petitioner or his duly authorized officer, attorney, or agent, and shall set forth the name, address, and telephone number of the petitioner and any such officer, attorney, or agent, and the names of all representatives of petitioner who will appear in the investigation. The petition shall allege the elements necessary for the imposition of a duty under section 701(a) or 731(a) of the Act and contain information reasonably available to the petitioner supporting the allegations. Petitioners are advised to refer to the

administering authority's regulations concerning the contents of petitions.

7. Paragraph (b) of section 207.21 is revised to read as follows:

**§ 207.21 Prehearing and final staff reports.**

\* \* \* \* \*

(b) *Final staff report.* After the hearing, the Director shall revise the prehearing staff report and submit to the Commission, prior to the Commission's final determination, a final version of the staff report. The final staff report is intended to supplement and correct the information contained in the prehearing staff report. A public version of the final staff report shall be made available to the public and a business proprietary version shall also be made available to persons authorized to receive business proprietary information under section 207.7.

8. Paragraph (c)(2) of section 207.23 is revised to read as follows:

**§ 207.23 Hearing.**

\* \* \* \* \*

(c) \* \* \*

(2) *Revision of transcripts.* Within ten (10) days of the completion of a hearing, but in any event at least one (1) day prior to the date for disclosure of information set pursuant to section 207.29(a), any person who testified at the hearing may submit proposed revisions to the transcript of his testimony to the Secretary. No substantive revisions shall be permitted. If in the judgment of the Secretary a proposed revision does not alter the substance of the testimony in question, he shall incorporate the revision into a revised transcript.

9. A new section 207.29 is added to read as follows:

**§ 207.29 Comment on information.**

(a) In any final investigation under section 705 or 735 of the Act, the Commission shall specify a date on which it will disclose to all parties to the investigation all information it has obtained on which the parties have not previously had an opportunity to comment. Any such information that is business proprietary information will be released to persons authorized to obtain such information pursuant to section 207.7. The date on which disclosure is made will occur after the filing of posthearing briefs pursuant to section 207.24.

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to section 207.24. Comments shall only concern such information, and shall not exceed 10 pages of textual

material, double spaced and single-sided, on stationery measuring 8 1/2 x 11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information or comments on information disclosed prior to the filing of the posthearing brief shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to investigations subject to the provisions of section 771(7)(G)(iii) of the Act.

(c) This section shall be applicable only to proceedings that have been self-initiated by the administering authority after, or initiated pursuant to petitions or requests filed after, the date on which the Agreement Establishing the World Trade Organization enters into force with respect to the United States.

10. Paragraphs (a) and (b) of section 207.40 are revised to read as follows:

**§ 207.40 Termination and suspension of investigation.**

(a) An investigation under title VII may be terminated by the Commission by giving notice in the **Federal Register** to all parties to the investigation, upon withdrawal of the petition by the petitioner, or upon issuance of a final negative determination or termination of its investigation by the administering authority under section 303, 705 or 735 of the Act. The Commission may not terminate an investigation upon withdrawal of the petition by the petitioner, however, before a determination is made by the administering authority under section 702(c), 703(b), 732(c) or 733(b) of the Act.

(b) Upon receipt of notice of suspension of an investigation by the administering authority under section 704 (b) or (c) or 734(b), (c), or (1), of the Act, the Secretary shall issue a notice of suspension of the Commission investigation. Such suspension shall not prevent the Director from conducting such other investigative activities as he deems appropriate with respect to the subject matter of the suspended investigation.

\* \* \* \* \*

11. A new section 207.46 is added to read as follows:

**§ 207.46 Investigations concerning certain countervailing duty orders.**

(a) *Definitions.* For purposes of this section:

(1) *Requesting party* means an interested party described in section 771(9) (C), (D), (E), (F), or (G) of the Act.

(2) *Order* means a countervailing duty order issued under section 303 of the Act as to which the requirement of an affirmative determination of material injury under section 303(a)(2) of the Act was not applicable at the time such order was issued.

(3) *WTO Agreement* means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(b) *Request for review.* A requesting party may file with the Commission a request for an investigation under section 753 of the Act within the time period established by section 753(a)(3) of the Act. The request should contain the following information:

(1) A description and identification of the relevant domestic like product, the industry in the United States producing that product that is likely to be materially injured by reason of imports of the subject merchandise if the Order is revoked, and each individual member of that industry.

(2) Information reasonably available to the requesting party concerning the names and addresses of all known enterprises believed to be manufacturing, producing, exporting, or importing the subject merchandise;

(3) Information reasonably available to the requesting party documenting that the industry described in paragraph (b)(1) of this section is likely to be materially injured by reason of subject imports if the Order is revoked, including:

(i) Information concerning the capacity, production, sales, market share, inventories, employment, wages, productivity, profits, ability to raise capital, and development and production efforts of the industry described in paragraph (b)(1) of this section.

(ii) Information concerning current and projected production capacity in the exporting country of the subject merchandise, inventories of the subject merchandise, and the existence of barriers to the importation of such merchandise into countries other than the United States.

(4) Information concerning any scope and anticircumvention rulings issued by the administering authority with respect to the Order.

(c) *Initiation of Investigation.* (1) Upon the receipt of a timely filed request for a section 753 investigation

satisfying the requirements of paragraph (b) of this section, the Secretary shall publish a notice of initiation of such investigation in the **Federal Register**.

(2) Subject to paragraph (c)(3) of this section, a section 753 investigation shall be completed within one year of the date of publication of the notice of initiation of such investigation in the **Federal Register**.

(3) The Commission may take more than one year to complete section 753 investigations for which requests for investigations are received within one year after the date on which the WTO Agreement enters into force with respect to the United States. All such investigations must be completed within four years of that date, however. In determining whether to extend the completion date for a section 753 investigation, the Commission shall consult with the administering authority. Grounds for extending completion include, but are not limited to, the desire to conduct investigations involving the same or similar domestic industries and domestic like products on a simultaneous basis, and the desire to efficiently manage the Commission's caseload.

(d) *Conduct of Investigations.* The procedures set forth in subparts A and C of this part shall apply to all investigations initiated under this section.

(e) *When No Request for Review Is Filed.* When there has been no properly filed and sufficient request for a section 753 investigation of an Order, the Commission shall notify the administering authority that a negative determination has been made under section 753(a) of the Act with respect to that Order.

(f) *Pending and Suspended Section 303 Investigations.* If, on the data on which a country becomes a signatory to the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act, there is a section 303 countervailing duty investigation in progress or suspended with respect to that country's merchandise for which the requirement of a material injury determination under section 303(a)(2) of the Act was not applicable at the time the investigation was initiated, the Commission shall commence an investigation pursuant to the provisions of section 753(c) of the Act with respect to pending investigations and suspended investigations to which section 704(i)(1)(B) of the Act applies.

(g) *Request for Simultaneous Expedited Section 751(c) Review.* (1) A requesting party who requests a section

753 review may at the same time request from the Commission and the administering authority an expedited review under section 751(c) of the Act of a countervailing or antidumping duty order involving the same or comparable subject merchandise. The request for review under section 751(c) of the Act should set forth evidence to establish why revocation of the order to be reviewed under section 751(c) of the Act would be likely to lead to continuation or recurrence of material injury and should additionally contain any information required by the regulations of the administering authority.

(2) Should the administering authority, after consulting with the Commission, determine to initiate a section 751(c) review, the Commission shall conduct a consolidated review under sections 751(c) and 753 of the Act of the orders involving the same or comparable subject merchandise. The procedures set forth in subparts A and C of this part shall apply to any such consolidated review.

(3) Should the administering authority, after consulting with the Commission, determine not to initiate a section 751(c) review, the Commission will consider the request for a section 753 review pursuant to the procedures established in this section.

By order of the Commission:

Issued: December 24, 1994.

**Donna R. Koehnke,**

*Secretary.*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 8588]

RIN 1545-AS70

**Subchapter K Anti-Abuse Rule**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document contains a final regulation providing an anti-abuse rule under subchapter K of the Internal Revenue Code of 1986 (Code). The rule authorizes the Commissioner of Internal Revenue, in certain circumstances, to recast a transaction involving the use of a partnership. The final regulation affects partnerships and the partners of those partnerships and is necessary to provide guidance needed to comply with the applicable tax law.